



Children, Families, Health and Human Services Interim Committee

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56th Montana Legislature

SENATE MEMBERS

MIGNON WATERMAN, PRESIDING OFFICER
DALE E. BERRY
EVE FRANKLIN
BOB KEENAN

HOUSE MEMBERS

LOREN L. SOFT, VICE PRESIDING OFFICER
BOB LAWSON
TRUDI SCHMIDT
CAROLYN SQUIRES

COMMITTEE STAFF

SUSAN BYORTH FOX
RESEARCH ANALYST
DAVID NISS
STAFF ATTORNEY
LOIS O'CONNOR
SECRETARY

MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Exhibits and tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a 15-cent-per-page charge for copying.**

Second Meeting of Interim
Room B07, Federal Building
August 20, 1999

COMMITTEE MEMBERS PRESENT

Sen. Mignon Waterman
Rep. Loren Soft
Sen. Dale Berry
Sen. Eve Franklin
Sen. Bob Keenan
Rep. Bob Lawson
Rep. Trudi Schmidt
Rep. Carolyn M. Squires

STAFF PRESENT

Susan Byorth Fox, Researcher
Lois O'Connor, Secretary

VISITORS

Visitors' list (ATTACHMENT #1).

COMMITTEE ACTION

- C approved the minutes from the June 15, 1999, organizational meeting
- C approved that Committee staff write a letter to the State Administration, Public Retirement, and Veteran's Needs Committee (SAIC) requesting that CFHHS become the monitoring committee for the National Guard Youth ChalleNGe Program

CALL TO ORDER, ROLL CALL, AND ADOPTION OF MINUTES

The meeting was called to order by Sen. Waterman, Chair, at 9:10 a.m. Roll call was noted, all Committee members were present. (ATTACHMENT #2)

Rep. Soft **moved** to adopt the minutes from the June 15, 1999, organizational meeting. Motion carried unanimously.

Susan Fox, Research Analyst, Legislative Services Division, provided an overview of Senate Bill No. 11 (interim committee restructuring) that requires all six permanent interim committees to assume responsibility for reviewing administrative rules and monitoring agencies within their jurisdictions. She also provided an overview and a copy of the Children, Families, Health, and Human Services Committee (CFHHS) Interim Committee Duties and Responsibilities, a copy of the CFHHS Possible Monitoring and Oversight Topics, and a copy of the CFHHS Tentative Work Plan. (EXHIBITS #1, #2, and #3 respectively) Ms. Fox also informed the Committee that two recent audits from the Legislative Audit Division regarding the Department of Public Health and Human Services (DPHHS) were available upon request.

Another issue discussed was the possibility of two interim committees intersecting or overlapping on their monitoring and oversight duties. Two examples were given: (1) the state Veterans' Homes in Columbia Falls and Glendive. The two homes currently fall under the auspices of the Senior and Long Term Care Division of DPHHS for administrative purposes but veteran's issues are under the auspices of the SAIC; and (2) the National Guard Youth ChalleNge Program that falls under the auspices of SAIC. However, because the Youth ChalleNge Program accessed tobacco settlement funds, interim committee oversight may fall under the auspices of the CFHHS. Ms. Fox said that if the Committee wanted to assume the oversight duties of the Youth ChalleNge Program, it must officially ask SAIC.

Sen. Waterman said that because of the size of the Committee, it should narrow its focus of oversight duties to two additional topics in addition to the Legislative Finance Committee's mental health managed care study.

DPHHS DIRECTOR AND DIVISION ADMINISTRATOR PRESENTATION

Laurie Ekanger, Director, Department of Public Health and Human Services (DPHHS), provided a Department presentation agenda and a brochure 1999 Department Guide. (EXHIBITS #4 and #5 respectively) She also presented a brief Department overview. She said that the Department was the largest state agency, employing 3,000 Montanans across the state, and all of the Divisions under the umbrella of DPHHS were structured to help the people of Montana be healthy, safe, and self-sufficient.

Nancy Ellery, Administrator, Health Policy and Services Division, DPHHS, said that the most significant problems currently facing the state are Montana citizens' inability to access public health care, the ever-rising costs of health care, and the continuing increase in the number of uninsured citizens. She said it was the Division's goal to increase access to care by possibly increasing the childrens' health insurance program (CHIP), issuing vouchers for insurance through the tobacco settlement funds, or to establish a trust fund using tobacco settlement funds.

Ms. Ellery also provided the following information: (1) a chart showing Montana's public health system partners (EXHIBIT #6), an overview of the Montana's Turning Point Initiative (EXHIBIT #7), a brochure Montana Health Agenda (EXHIBIT #8), and the report Facts and Figures Concerning the Uninsured (EXHIBIT #9)

Sen. Keenan asked if the Department's outreach was identifying Montana's public health needs and, if so, what are the needs. Ms. Ellery said that most of the outreach needs are directed toward public health infrastructure. She said that four counties in Montana have no public health departments, some small counties have a one-half time nurse that covers four counties, and some do not have computers. There is also the issue of work force training. Sen. Keenan asked about the implementation of CHIP. Ms. Ellery said that CHIP would be implemented on October 1, 1999. She said it may not be the most perfect program at that time, but children will have insurance.

Denzel Davis, Administrator, Quality Assurance Division, provided an update on the impending administrative rules that the Division is working on. They are as follows:

- C network adequacy rules. Two areas of controversy are the rules on geographic access criteria: Rule IX, geographic access criteria including providers within a 45-mile radius and Rule X, the DPHHS ability to grant exceptions.
- C rules regarding House Bill No. 607, introduced by Rep. Soft, that allow people on managed care to go elsewhere to appeal if they do not like the decision made by their managed health care companies; and
- C day care rules.
- C (For a list of the services provided by the Division, see page 13 of Exhibit #5)

Mr. Davis said that another issue that is new to the Division is the grant process. One year ago, Congress passed legislation that made medical-assistance facilities a permanent Medicare provider-type facility--currently designated as critical-access hospitals. On October 1, 1999, all current medical-assistance facilities will shift to critical-access hospitals and three new hospitals have been certified under the critical-access hospital rules. The Division submitted its first grant in June and received startup funding of \$200,000 and it has requested an additional \$600,000 for an implementation grant. If received, the money will be used to stabilize rural critical-access hospitals.

Rep. Squires asked about the changes in the day care rules. Mr. Davis said that many of the day care rules were confusing in that they were the same whether a facility was a day-care center, a group home,

or a family day-care center. The Division is trying to restructure the rules while, at the same time, not making substantive changes within the rules.

Rep. Soft asked if the Division has reviewed an accreditation procedure in addition to or in place of licensing. Mr. Davis said that the grant did not address accreditation because critical-access hospitals are hospitals and would be able to become accredited anyway.

Mike Hanshew, Administrator, Senior & Long-Term Care Division, presented an overview of Montana's aging population and provided the following information:

- C a report--Long-Term Care in Montana (EXHIBIT #10);
- C a report--The State of Aging: Final Report Summary (EXHIBIT #11)
- C a report--The State of Aging in Montana: The Aging Baby Boom: Implications for State Government (EXHIBIT #12)

Mr. Hanshew said the biggest senior and long-term care crisis in Montana is the significant decrease in nursing home occupancy, particularly in small, rural nursing homes. He said that not only are fewer people entering nursing homes, but the people currently entering nursing homes are older, sicker, and need more care and the crisis is exacerbated by less revenue, higher demands, and higher acuity. The result will be nursing homes going out of business.

Rep. Lawson asked about the 1% direct caregiver wage increases. Mr. Hanshew said that the Division identifies how much of an increase each provider needs and gives the provider the discretion on how it is distributed, as long as the increase was direct-care-staff related as opposed to facility related. He added that there was also a huge increase in demand for home and community services. At the same time that the nursing home occupancy is dropping, there are many more people who want to stay at home or go into a small alternative to nursing homes and a portion of those people want public payment for those services. As a result, these facilities are competing for resources. He said that the only solution to the long-term care problem is to establish a system of publicly funded long-term services for large numbers of people.

Sen. Franklin said that there will always be a need for expertise and planning in health care, but the question is: What type of health care will the available resources provide? She believed that the answer was in community-based services.

Sen. Waterman requested information on the income levels of the elderly. She said that it is important that the state help people plan on how they are going to care of themselves because the state will be unable to provide resource for all of the elderly. Mr. Hanshew said that the Governor's Council on Aging has begun a public relations campaign to begin addressing the issue and the educational process.

Joe Mathews, Administrator, Disability Services Division, provided an overview of the Disability Services Division. (See Page 22 of Exhibit #5) He said that, for many years, the Legislature has been grappling with particular services for people with developmental disabilities in Montana and there has been a shift from institutional settings to community-based services. He said that the Department, along with the Montana Consensus Council and other stakeholders, is currently developing a work plan for the Department's study directive enacted under House Bill No. 2 in the 1999 Session. He requested that a member of CFHHS be appointed as a member of the working plan group.

Sen. Keenan said that Montana's prison population is also aging and their costs are very high. He said that the Eastmont Human Services Center in Glendive could be used to house this population if it were downsized. However, if the Center is closed, the nursing homes have a low occupancy and they are more than receptive to taking severe developmentally disabled patients.

Chuck Hunter, Administrator, Child and Family Services Division, presented an overview of the Child and Family Services Division. (EXHIBIT #13) (See also Page 30 of Exhibit #5) Mr. Hunter told the Committee that his Division has a new business and action plan. It is striving for more consistency in the five Montana regions. He said that sufficient personnel and training continue to be problematic. There are approximately 10,000 reports of child abuse and neglect a year and the Division has a staff of 200 case workers. There are 330 in the Division in total for all administrative functions, licensing, program management, including case workers. The Division has received an independent audit that reports how many additional case workers are needed to follow federal standards and how many are needed to follow the less stringent standards in state statutes. He added that mental health issues also intersect with his Division and he saw a need to work from the middle of the continuum of care--from out-of-home placements, to permanency prevention.

Mr. Hunter said that better coordination and cooperation is needed with the court system. The Child and Family Services Division is very connected with County Attorneys, who present the Division's child abuse and neglect cases in court, and Judges, who are assuming a new level of responsibility for watching over the placement and permanency of children. There are 22 District Courts that operate in much the same way, but yet, operate in many individual variations. The Department needs to find a way to work better with the court system as a whole. As a result, the Division wrote a letter to Pat Chenovick, Supreme Court Administrator, that proposed bringing judges and child welfare people together to define a systemic way of working with the types of cases that the Division handles. The Consensus Council will also be involved.

Mr. Hunter added that House Bill No. 207, introduced by Rep. Johnson, provides a new funding stream for the courts that handle child abuse cases and the Division is experiencing a few difficulties with it. He said that courts access the funds through the number of petitions and dispute resolutions that they have and, instead of doing one petition for an entire family, as was done in the past, courts across the state are demanding four or five petitions. He said that even though the Department provides dispute resolution services, courts are assigning and coordinating dispute resolutions because they receive funding for them.

Sen. Franklin said that most of the comments that she has heard regarding youth who suffer from abuse or neglect is the incredible demand for services. There are many "lost children" with no way to access services and the schools are overwhelmed with these children who are getting younger and younger.

Sen. Waterman added that one of the issues brought to the attention of the mental health managed care (HJR35) subcommittee was the concern that the state was not intervening for children early enough and in a comprehensive manner. However, she was not hopeful that the Legislature would agree to add considerable staff in this area. The overall issue then becomes how the state can prioritize the work and serve as many children as it is currently. She asked if Mr. Hunter saw a role for CFHHS involvement. Mr. Hunter said that a Committee member is needed for the Advisory Council. He added that if the Division is to handle fewer cases, it means reviewing what cases will be taken into the system and which cases will not be taken, resulting in things happening to children that would not have happened before. Sen. Waterman added that her major concern has always been that children not remain in the system and in the custody of the state for a number of years or aging out of the system without some significant relationship with an adult. She said that she will continue to ask how the Department is going to improve this situation.

Rep. Lawson requested that the Department also not lose sight of the parents who believe that they have been trampled on by the system.

Hank Hudson, Administrator, Human and Community Services Division, presented the issues and challenges of the Human and Community Services Division with regard to Family Assistance In Montana (FAIM) Phase II, eligibility requirements, and county/state relations. (EXHIBIT #14) (See also Page 37 of Exhibit #5)

Mr. Hudson said that the most contentious issue facing the Division is the struggle between the counties and the state in the delivery of public assistance, particularly in non-assumed counties (43). Language in HB 2 directed the Department to establish a plan that would create a predictable and equitable funding system for public assistance to help erase some of the division between assumed and nonassumed counties. In the past, public assistance was delivered by the counties. With the passage of Medicaid and food stamps, etc., the delivery of public assistance shifted from the county responsibility to state and federal responsibility. Since the state had to put up matching funds, some counties could not afford the cost and the state assumed their responsibility in exchange for property tax revenue. In the mean time, the move was made to block grants which have nothing to do with matching funds. As a result, it has created confusion regarding how the Department expects counties to fund their share of public assistance. There is also the fear of counties losing local control. He requested that the Committee appoint a nonassumed county representative to be a part of the HB 2 report working group.

Sen. Franklin requested that as the Department develops the input structure of FAIM Phase II, it involve advocacy groups who will have a different perspective on how to access the right people. Sen. Waterman requested that if the Department needs to replace a member of the FAIM Advisory Group, she would like the replacement to be a member of the CFHHS.

Mary Ann Wellbank, Administrator, Child Support Enforcement Division, presented an overview of the Child Support Enforcement Division (See Page 16 of Exhibit #5) and reviewed the following child support guidelines: Montana Child Support Guidelines and Montana Child Support: Guideline Models, Historical, Comparative. (EXHIBITS #15 and #16 respectively) Ms. Wellbank proposed that the Committee review Montana's child support guidelines because even though Montana has one of the most equitable child support formulas in the country, it is also the most complicated and some judges and attorneys refuse to use them. She offered examples of other states.

Sen. Waterman urged the Committee to talk to their local judges and attorneys about Montana's child support guidelines (Melson Formula Model). She said that the judges in her area commented that they do not use the current Montana guidelines because they are too complex. However, they do use the Wisconsin guidelines.

MENTAL HEALTH MANAGED CARE PROGRESS REPORT

Randy Poulsen, Chief, Mental Health Services Bureau, DPHHS, said that the new public health system went into effect July 1, 1999. The managed care program is currently called a managed fee-for-service program and consists of four basic components which are as follows:

- C oversight, administration, and policy performed by the Mental Health Services Bureau;
- C economic and financial determination for eligibility for the Mental Health Services Plan performed by the Public Assistance Bureau
 - T Medicaid program for mental health services; and
 - T Mental Health Services Plan which is in place to serve people who were served under the Mental Health Access Plan under non-Medicaid eligibility (i.e. people with serious mental illness and a total family income of up to or less than 150% of the federal poverty level);
- C clinical eligibility and utilization management performed by the Mountain Pacific Quality Health Foundation; and
- C claims payment performed by Consultec.

Mr. Poulsen acknowledged that there were problems with eligibility determination, notification to providers and consumers, the turn around time on authorizations, and provider payments. He added that the Department is pursuing an assertive community treatment program (PACT) which is a model that is an intensive support system for people who are at high risk for being hospitalized. The program is being piloted in Helena and Missoula.

Sen. Keenan said that the Mental Health Oversight Advisory Committee consists of 19 members and it has split into two subcommittees--one for the adult state plan and one for the child state plan. The Consensus Council is beginning interviews of Committee members to see in what direction the members would like the Committee to go in the future. Sen. Keenan commented that the state has the opportunity to take advantage of the unity, focus, drive, and optimism seen in the 1999 Session to establish a mental health delivery service plan for Montana that it could be proud of.

Sen. Franklin provided written comments prepared by Lois Steinbeck, Senior Analyst, Legislative Fiscal Division, on the House Joint Resolution #35 subcommittee. (EXHIBIT #17) She said that the HJR 35 subcommittee is charged with studying further development and monitoring the transitions within the public mental health care system. She added that the subcommittee reviewed key program

implementation concepts such as integration and financing of services, reviewed funding streams, and focused on the development of community-based services.

Bonnie Adee, Ombudsman, Board of Visitors, Governor's Office, said that her position is used as a resource for mental health consumers, the Mental Health Advisory Committee, the Department, the Governor's Office, legislators, and mental health providers. Her priorities are to become knowledgeable about the mental health system, to develop relationships with entities who are operating parts of the system, and to become as visible as she can as a resource for consumers and providers.

Sen. Berry asked Mr. Poulsen to clarify his statement about providers determining eligibility. Mr. Poulsen said that the eligibility process for the mental health services plan consists of economic and financial eligibilities. Providers assist consumers with the eligibility form and perform the clinical assessment to determine whether an individual meets the Department's criteria. However, as far as providing out-patient services, the Department is allowing out-patient providers to determine whether the services are necessary.

Referring to a newspaper article, Sen. Berry commented that the new state system will be faced with many of the same problems that Magellan faced and he could not comprehend how the state was going to get a handle on many of the problems if there continues to be a large disparity between the amount owed a provider and what is perceived to be owed. Rep. Squires said that the newspaper article was in reference to fees owed the Western Montana Mental Health Center (WMMHC) by Magellan.

Sen. Waterman said that people must be careful as they review what is happening with the WMMHC because everyone may not be talking about exactly the same thing. They may be talking about bill charges versus allowable charges versus deniable charges. Rep. Squires said if that were the case, then the responsibility should lie with the monitoring agency to take in hand the documents that are being talked about before the press is contacted. Director Ekanger said Mike Billings prepared a response to the Governor about payment. Sen. Waterman asked that the Committee be supplied with a copy of the response.

Mr. Poulsen said that the Department is very cognizant that there is a very limited budget for the program and it does not have the ability to spend more than is budgeted. The Department must be monitoring the costs and it may have to make the choice of serving fewer people, to provide fewer services, or to make the people receiving the services participate more in the cost of the services.

Sen. Keenan said that he understood at the adjournment of the Legislature that the Department would go into a transition period while all of the stakeholders developed a new services delivery plan. Mr. Poulsen said that there was that expectation but the Department's interpretation was that the Advisory Committee would be instrumental in developing the new system. Sen. Franklin added that the Department must be careful to not refer to the transition period as having a managed cost or care. If in fact the Department is doing only retrospective reviews, the state, in the next biennium, would be looking at costs and chaos. She suggested that the Department first review the clinical protocols for management early.

Sen. Waterman informed the Committee that it was invited to the 1999 MT State Conference on Mental Illness in Great Falls on October 13, 14, and 15. The Committee budget will cover the cost and registrations are available from Committee staff.

TOBACCO SETTLEMENT UPDATE

National Guard Youth ChalleNGe Program

Colonel Mike McCabe, Department of Military Affairs, introduced **Mike Royer, Director, Youth ChalleNGe Program**, who presented an overview of the Montana National Guard: Youth ChalleNGe Program. (EXHIBIT #18)

Sen. Waterman requested information on the composition of the review committee, a breakdown of the list of applicants, and a breakdown of the program teachers in the areas of how many males, females, and Native Americans.

Rep. Soft requested a breakdown of the cost of the ChalleNGe Program, particularly the per-student-per-day cost based on length of stay. He said if the Program's length of stay is 5 months and compared to another program, such as Boys Town where the length of stay is 12 to 16 months, the cost of the ChalleNGe Program could be substantially different. He added that the Program must also be very careful in the types of youth that they are working with. He said that the ChalleNGe Program has a selective group of youth whereas Boys Town, for example, has severely emotionally troubled youth. Mr. Royer said that he would provide the Committee with information regarding the Program's cost per day per student. He added that the Program accepts only nonadjudicated juveniles in that the juveniles may have had a past adjudication but are not under the custody of the Department of Corrections.

Ms. Fox clarified that according to the Montana constitution, youth under 18 years of age have the same rights as an adult. Even though the Youth Court appears to be a criminal system, it is actually a civil or combination system. When a youth completes his or her sentence, their full rights are restored. Sen.

Keenan said that during the Session, legislators were told that the ChalleNGe Program would be specifically for youth who have gone adrift but have not been in serious trouble. Legislators will be looking for whether the ChalleNGe Program will be targeting that type of youth and not get into the correctional field and mix these types of youth together.

Sen. Keenan asked about the one-to-one case load in the postresidential portion of the Program. Mr. Royer said that the one-to-one matchup in the postresidential portion of the Youth ChalleNGe Program will be accomplished through volunteer mentors. Sen. Keenan commented that the spotlight will be on the Program to be successful, as many legislators were concerned that it was enacted in the waning hours of the Session. He asked what the future state/federal percentage match for the Program would be (currently the match is 70% federal and 30% state). Mr. Royer said that the percentage increases 5% per year and caps at 40%.

Sen. Waterman said that she did not want the ChalleNGe Program to serve the cream-of-the-crop youth but rather those youth who are most in need. She will be looking at the Program as (1) is it successful, (2) is it funded appropriately, and (3) is it serving the appropriate group of youth.

DPHHS: CHIP, Tobacco Prevention

Drew Dawson, Bureau Chief, Emergency Medical Services and Injury Prevention Section, DPHHS, presented an overview of the Montana Tobacco Use Prevention Program. (EXHIBIT #19) Mr. Dawson said that the reason Montana entered into the tobacco litigation was to (1) protect children from the tobacco industry's marketing efforts, (2) to put an end to the industry's deceptive practices, (3) to reimburse the state for tobacco-related care costs, and (4) to force the industry to tell the truth about the addictive nature of nicotine and the steps that it has taken to conceal the truth from the public. Mr. Dawson asked for names of members of the Committee who would be interested in serving on the Governor's Advisory Council.

Children's Health Insurance Program (CHIP) Rule Review

Mary Dalton, CHIP Coordinator, DPHHS, presented the following information: (1) an outline of what services and what type of youth CHIP will cover (EXHIBIT #20), (2) a list of CHIP startup time lines (EXHIBIT #21), and (3) proposed rules for CHIP implementation (EXHIBIT #22). Ms. Dalton said that CHIP will pay for treatment of metabolic disorders and will provide basic mental health coverage for people who are eligible. If more treatment is needed, the youth will enter the mental health services plan. She added that under federal law, if a person resides in a residential treatment center, an inpatient psychiatric hospital for children, or other facilities that can be designated as an institute for mental disease

at the time that the youth applies for CHIP, the youth cannot be made eligible. In addition, Ms. Dalton said that the Department proposes that dental coverage be made a fee-for-service program and proposes to provide one pair of eye glasses a year.

Rep. Squires asked if a CHIP youth would have to go to the Medicaid standard for eye glasses and she asked about the fee-for-services for dental coverage. Ms. Dalton said that the Department will extend its current volume purchase contract and will purchase eye glass directly through the contractor. It will issue one pair of eye glasses per year and if a youth breaks or loses them, the family must pay for the cost of replacement. She added that because access to dental care is a nationwide problem, CHIP will provide dental coverage on a fee-for-service basis because of the inability to get dentists to participate in the program. She said that CHIP dental rates are expected to be higher than Medicaid rates and the Department is not proposing to go to 100% of charges.

Sen. Waterman said that her concern is the possible erosion of the little dental access that Medicaid children currently have if dentists are given a choice because they will take CHIP children. Ms. Dalton said that the dentists have specifically said that they will not participate in CHIP at the Medicaid rate. Sen. Waterman said that the whole dental access issue needs to be reviewed and pressure needs to be applied. She asked for suggestions on how this could be accomplished.

Rep. Soft asked if there would be a cap on the dental fee for service and he asked about the screening process for CHIP. Ms. Dalton said that there will be a \$200 cap on dental fees and the Department is creating a joint application for CHIP and Medicaid in hopes of limiting the number of false referrals. However, the application will not be complete by the October 1 deadline.

Referring to page 28, Rule 6, Sen. Franklin said that she was concerned about how the Department would evaluate an "acceptable" arrangement between a mid-level provider and a physician or mid-level provider with admitting privileges to a general hospital or medical assistance facility. By rule, the Department is negating the intention of the statute which is to use lower-cost mid-level providers for well-child care. She said that the rule needed more discussion and the Committee needs to look at the implications of the rule.

Sen. Keenan asked if there was a concern with preauthorizations, noting the problems with preauthorizations in mental health. Rep. Squires said that if preauthorization is one of the provider's criteria, then the provider should put it on the CHIP card. Ms. Dalton added that each insurer must also send a booklet to CHIP families which lay out the rules that must be followed in order to participate in the program.

Ms. Dalton said that the Department will be sending the proposed rules to interested parties and post them on its website. She requested that if the Committee had any comments or changes to the rules, that they be sent to her by September 10. The updated version of the rules will be filed with the Secretary of State's Office on September 27.

Staff Update: legal issues, Montana Comprehensive Health Association

Ms. Fox said that "state-specific finality" which allows the tobacco settlement funds to be funneled into the states has not been reached to date. Eighty percent of the states or states having 80% of the share of the aggregate tobacco settlement must have state-specific finality before the tobacco funds can be released, otherwise the funds will not be released until June 30, 2000. She added that concerns were expressed about local government and tribal claims against the tobacco companies and whether those claims would interfere with the distribution of the funds. Local governments and tribes are free to pursue their own claims separate from the state's case. There is no interference with the state's settlement, however, if more claims are settled against tobacco companies, it may compromise their ability to fulfill the 30-year payment. Another issue of concern was that Congress wanted its 70% returned but, to date, it has waived its federal reimbursement claim against Medicaid dollars.

In addition, Ms. Fox said that the Montana Comprehensive Health Association (MCHA) also received an appropriation from the tobacco settlement and the MCHA believes that it will not have to access the funds until the second year of the biennium. MCHA is under the umbrella of the Commissioner of Insurance and, therefore, under the jurisdiction of another interim committee. If the Committee wants to monitor the MCHA's use of tobacco settlement funds, it must go through the formal process of asking the appropriate interim committee.

PUBLIC COMMENT

Jan Spiegle Stinger, Lifespan Respite Care Projects, provided a progress report from Montana's Lifespan Respite Care Projects (EXHIBIT #23) and a report on What is respite care? (EXHIBIT #24) Ms. Spiegle Stinger said that the Lifespan Respite Care Projects provide respite to anyone who needs it for any type of need without regard to ability to pay. She added that most families who care for a family member with special needs at home have the common need to take a break. She said that in the future when the Lifespan Coalition has model data from the two Lifespan pilot projects, the Coalition will request startup funding from the Legislature for respite services for each county, community, or group of counties.

Sen. Waterman asked that the Committee be kept updated particularly when the Coalition begins drafting its legislation.

Chuck Butler, Blue Cross Blue Shield of Montana (BCBS), provided a packet of information regarding CHIP (BlueCHIP) that included a provider network map, a provider directory, an enrollment map, and enrollee handbook, an evidence of coverage, and a utilization report. (EXHIBIT # 25) Mr. Butler said that the most serious crisis that needs to be addressed is the lack of dental care, adding that there are only 63 dentists out of 500 in the state who participate in the Caring Program. BCBS also has contracts with 1,800 doctors, nurses, etc. who have agreed to accept 80% of the BCBS allowance for CHIP. He said that however the dental program is established for CHIP, he hoped that the 80% would set a standard.

Carson Strege, Research Director, Montana People's Action (MPA), expressed MPA's concerns about the Department ignoring the directive of combining the Medicaid and CHIP application to make a seamless application process for low-income families, the lack of the Department's aggressive outreach plan, the serious lack of dental access, and the CHIP rule time line for public comment is too short. Ms. Strege requested that the Committee establish a more comprehensive solution to "carving out" children which could send Montana's Medicaid children down the river. She said if a dentist has a choice between CHIP and Medicaid and will take only a few subsidized children, dentists will take the CHIP children.

Kelly Pollington, Montana People's Action and Bridgette Case, Montana People's Action, provided written comments (EXHIBITS # 26 and #27) and **Eric Szemes, Montana's Promise** expressed their concerns about the lack of aggressive outreach for CHIP, the lack of dental access for CHIP, and the Department's ignoring the directive to combine the CHIP and Medicaid applications.

Kip Smith, Montana Primary Care Association, expressed his concerns about the proposed approach to dental care within CHIP and whether all of the major components of CHIP will be implemented on October 1. He said that CHIP implementation on a nation-wide basis has been extremely low. As a solution, HRSA established a state/federal/private partnership which was designed to address barriers in states for the successful implementation of CHIP. He said that HRSA has offered to facilitate a 1-day conference in Montana around the issue of children's oral health because dental access is a nation-wide issue.

Mr. Smith addressed the ever increasing uninsured population in Montana. He requested that the Committee address the issue of whether the decreasing FAIM caseload is causing the increase in the number of uninsured. He said that insurance status has a direct impact on access to care and the health status of Montanans. He also requested that the Committee address the issues of mental health, CHIP implementation, the future use of the tobacco settlement funds, the cost of treating tobacco-related illness, and the access to dental care.

Wendy Young, WEEL, requested that before the state enters FAIM Phase II that the Committee review

FAIM Phase I because the increase in the uninsured population is directly related to welfare reform.

Betty Waddell, Montana Association of Churches, said that the Association requests that the Committee review the child assurance program (proposed under HB313 in the 1999 session), economic justice and find ways to increase wages, address farm families and Native American issues, address gambling prevention and drug and alcohol addiction treatment programs, and address ways to remove guns from schools.

Steve Yeakel, Health Mothers Health Babies (HMHB), expressed his concerns about dental access and the lack outreach for CHIP. He also reminded the Committee of HMHB's Kids Count Data Book as an information source.

DEVELOPMENT OF INTERIM WORK PLAN

Following a thorough discussion of the proposed interim work plan (See Exhibit #3), the Committee decided the following:

- C to keep updated on the combined application for CHIP;
 - T although the Department currently uses a shortened application form, it will never be as short as people would like as long as Montana continues to have an asset and resource test.
- C to continue to resolve the mental health oversight issue through the HJR 35 subcommittee;
- C to continue monitoring the tobacco settlement funds and the Committee could be responsible for drafting appropriate legislation for its use;
 - T a subcommittee of entities who are interested in the settlement funds could be formed;
- C to identify dental accesses for children in CHIP, Medicaid, and children across the board;
 - T an agenda item for the February 18, 2000, meeting will be set aside for a possible presentation by Dr. Sutherland;
- C to request the Health Care Advisory Council to identify whether the decrease in FAIM enrollment is causing an increase in the number of uninsured people;

- C to requested an update on how many FAIM participants are getting sanctioned and what is the most frequent violation;
- C to continue monitoring welfare reform in general;
 - T Sen. Keenan will coordinate with and request that NCSL provide a report regarding the flexibility and opportunities for use of the block grant funds; and
- C to handle the HB 2 report requirement through standard reports.

Rep. Soft **moved** that Committee staff write a letter to the State Administration, Public Retirement, and Veteran's Needs Committee (SAIC) requesting that CFHHS become the monitoring committee for the National Guard Youth ChalleNGe Program. Motion carried unanimously. Monitoring of the Youth ChalleNGe Program will be handled through standing committee reports.

Sen. Waterman suggested that the agenda for the November 19, 1999, meeting include a report from Hank Hudson, DPHHS, on FAIM, SSI, and welfare flexibility, specifically how the Department is going to target the characteristics of the existing population, whether or not people leaving TANF may still be eligible for Medicaid and not receiving services, and the number of sanctions. Another agenda item was a report by Chuck Hunter, DPHHS, on foster care and the changes that may take place in children's services and the integration of those services. Dental access will be discussed at the February 18, 2000, meeting along with possible legislation on how to use the tobacco settlement funds proposed by the subcommittee on the tobacco settlement.

Sen. Waterman appointed Rep. Lawson to the Developmental and Disability Services and Consumer Council working group, appointed Rep. Soft and Sen. Berry to the assumed/nonassumed counties study through the Human and Community Services Division of DPHHS, and appointed Rep. Soft and Sen. Berry to the Tobacco Advisory Council. Rep. Schmidt was requested to keep the Committee informed of the issues coming before the Children's Services Advisory Council and was appointed chairperson of the Committee's tobacco settlement subcommittee. Rep. Soft and Sen. Berry were also appointed to the tobacco settlement subcommittee.

Referring to the administrative rule review function of the Committee, Ms. Fox said that after the CHIP rules are filed with the Secretary of State at the end of September, there must still be a public hearing held and written comments on the rules must still remain open. Therefore, the time line set for the CHIP rules would be longer. She said that if the Committee takes action on the CHIP rules, it may encumber the Department's rule review process and it may be in the best interest of CHIP to wait until after the Legislative Council's legal review of the rules.

Ms. Fox provided a copy of a letter sent to Sen. Waterman from Deaconess Billings Clinic expressing its concerns about the Department's proposed Rules IX and X of the network adequacy rules. (EXHIBIT # 28)

There being no further business, the meeting adjourned at 4:55 p.m.

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